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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,888	08/03/2001	Brian Davidson	042933/302185	9821
826 7590 05/01/2008 ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER ELAHEE, MD S	
			ART UNIT	PAPER NUMBER
			2614	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/920,888

**Applicant(s)**

DAVIDSON ET AL.

**Examiner**

MD S. ELAHEE

**Art Unit**

2614

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7-10 and 12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-10 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Final Drawing Review (PTO-64C)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

1. This action is responsive to an amendment filed on 02/08/2008. Claims 7-10 and 12 are pending.

### *Response to Arguments*

2. Applicant's arguments mailed on 02/08/2008 Remarks have been fully considered but they are not persuasive because of the following:

Regarding claim 10, the applicant argues on pages 2-6 that Beerman fails to teach or suggest a processor being configured to use an identity tag to obtain address information via a network and authorize the downloading of information **not otherwise addressed to any particular entity** via the network to a remote server or terminal identified by the address information associated with the identity tag, in response to receipt of the identity tag. Examiner respectfully disagrees with the argument.

In pages 7-8, lines 16-24 of paragraph 0023, the original specification states,

“So for example if the user sees a website address on an advertisement (such as illustrated in Figure 7) and wishes to have more information about the product/service being advertised, then the user transmits from the personal device an identity tag identifying the personal device to the advertisement. The advertisement is equipped with a receiver that receives the identity tag and registers the identity tag in a memory of the advertisement. The advertisement is connected to the network so that the user's registered identity is used as a means of addressing for the information to be downloaded”

In col.9, lines 25-31, col.13, lines 1-7, Beerman teaches,

“Information processing subsystem 88 may also be configured to authenticate remote device 12 when the remote device attempts to establish a session with messaging server 18. In a specific

embodiment, authentication is based on remote device identification information transmitted by remote device 12 and which uniquely identifies remote device 12.” and

“At step 134, information processing subsystem 88 determines if there are any outbound facsimile or E-mail messages received from remote device 12 which are to be sent to recipients as indicated by the “addressee” field of the messages.”

From the above, it is clear that original specification discloses that the advertisement server uses user’s identity to address information to be downloaded. Whereas, Beerman teaches that information system 88 of messaging server 18 [i.e., object device] identifies remote device 12 based on identity of the device. Beerman also teaches that the processing system of the server determines the destination address of the incoming messages from the device (see col.13, lines 1-7) and facsimile subsystem 86 faxes the facsimile messages to their recipients via telephone network 16 (see col.13, lines 27-29). It clearly means that the processing device uses the identity of the remote device to obtain address of the recipient’s device (for example ‘fax machine’ of recipient) and authorize the distribution of information via the network to a remote server or terminal identified by the address information associated with the identity tag. All of these functions are inherently controlled by processor of the server. Furthermore, examiner depends upon Parry for the teaching of missing element “processor downloading information” (see col.11, lines 55-67). Thus the examiner maintains the rejection of the claims in view of Beerman and Parry.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 7-10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beerman, Jr. et al. (U.S. 6,084,952) in view of Parry (U.S. 7,002,703).

Regarding claims 7, 8, 10 and 12, with respect to fig.1,2,4,5, Beerman teaches a system including a user operable PDA [i.e., portable radio communication device] (col.6, line 28) and an object device connected to a network, the portable radio communication device comprising:

a transmitter for transmitting a identity tag indicative of the identity of the portable radio communication device) (fig.4; col.9, lines 25-31).

the messaging server [i.e., object device] comprising a receiver, and a processor (fig.3, item 80). (Note: receiver is inherent in the messaging server)

in response to the receiver receiving an identity tag transmitted from a portable radio communication device, the processor being configured to use the identity tag to obtain address information via the network and authorize the distribution of information not otherwise addressed to any particular entity via the network to recipients' device [i.e., remote server or terminal] identified by the address information associated with the identity tag (col.12, lines 42-45, col.13, lines 1-7).

However, Beerman does not specifically teach processor downloading of information. Parry teaches processor downloading of information (col.11, lines 55-67). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Beerman to incorporate processor downloading of information in order to provide particular downloaded data to a particular device.

Regarding claim 9, Beerman teaches that the portable radio communication device is inherently a passive device (fig.2).

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MD S. ELAHEE whose telephone number is (571)272-7536. The examiner can normally be reached on Mon to Fri from 9:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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/Fan Tsang/

Supervisory Patent Examiner, Art Unit 2614

/M. E./

MD SHAFIUL ALAM ELAHEE

Examiner

Art Unit 2614

April 30, 2008